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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,396	02/25/2004	William M. Riesenberg	ASH-1900	2865

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Alfred A. Equitz  
GIRARD & EQUITZ LLP  
Suite 1110  
400 Montgomery Street  
San Francisco, CA 94104

EXAMINER

KUHNS, SARAH LOUISE

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 12/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/786,396	RIESENBERG ET AL.	
	Examiner	Art Unit	
	Sarah L Kuhns	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 18 objected to because of the following informalities: "An pit-receiving orifice" should be "a pit-receiving orifice." Also, in step (d) the last line should read, "the slicing knives to sever" instead of "the slicing knives sever." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rico Ruiz, U.S. Patent 5,722,318 and the applicant's disclosure of the prior art, in view of Cimperman, U.S. Patent 4,925,691.

In regard to claims 14 and 15, Rico Ruiz teaches a method for pitting and slicing an olive, as applicant discloses on the second page of his specification, including the steps of advancing a pitting and a coring knife into engagement with a fruit while translating the fruit along a segment of a first circular path, ejecting the pit from the fruit while the pitting knife is engaged with the fruit and retracting the coring knife away from the fruit, after which the pitting knife is retracted with the pitted fruit impaled thereon,

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thereby moving the pitted fruit along a generally helical path from a point along the first circular path to a point along a second circular path parallel to but separated from the first path, and translating the pitted fruit along a segment of the second path past swivel-mounted slicing knives in such a manner that the slicing knives engage with and slice the pitted fruit, wherein the slicing knives can be pivoted from an active position to an inactive position (column 5, lines 42-49). It is not clear whether the slicing blades used by Rico-Ruiz are spring-biased. However, Cimperman teaches the use of water jet cutters in place of blades which not only solves applicant's problem of dulling, but also would not be affected by any debris left due to pitting.

In regard to claims 16, 17, 20, and 21, Rico Ruiz discloses the slicing knives engaging the pitted olive while the pitted olive is impaled on the pitting knife and the slicing knives finish slicing the pitted fruit after the pitting knife has retracted away from the pitted fruit (figures 10 and 11).

In regard to claims 18 and 19, Rico Ruiz teaches a method for pitting and slicing an olive, as applicant discloses on the second page of his specification, including the steps of advancing a pitting and a coring knife into engagement with a fruit thereby causing the coring knife to core one tip of the olive, advancing the pitting knife to push the fruit against a pitting cup which has a pit-receiving orifice extending therethrough, and continuing to advance the pitting knife while the fruit is constrained by the pitting cup to push the fruit's pit through the pit-receiving orifice and retracting the coring knife away from the fruit and the pitting cup, thereby converting the olive to a pitted olive, retracting the pitting knife with the pitted fruit impaled thereon thereby pulling the pitted

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fruit into a slicing pocket and translating the pitted fruit in the slicing pocket into engagement with a set of slicing knives and retracting the pitting knife out of engagements with the pitted olive, thereby causing the slicing knives to sever the pitted olive into slices. Although Rico Ruiz does not specifically state the use of a chuck plate assembly, the examiner has interpreted the slicing pockets disclosed to be the equivalent of those claimed by applicant. It is not clear whether the slicing blades used by Rico-Ruiz are spring-loaded. However, Cimperman teaches the use of water jet cutters in place of blades which not only solves applicant's problem of dulling, but also would not be affected by any debris left due to pitting.

### ***Response to Arguments***

Applicant's arguments concerning step (c) of claim 14 and step (c) of claim 18 have been considered but are moot in view of the new ground(s) of rejection.

As to applicant's argument regarding the alleged advantage of the present invention involving the use of spring-biased/spring-loaded slicing blades, it is pointed out that such a distinction is not clearly defined in the claims. In addition, Cimperman teaches the use of water jet cutters which not only solve applicant's problem of dulling, but would also not be affected by any debris left due to pitting.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah L. Kuhns whose telephone number is 571-272-


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1088. The examiner can normally be reached on Monday - Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SLK

  
MILTON I. CANO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700